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## Understanding the Role of International Courts and Tribunals in Global Governance

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*International courts and tribunals serve an important role in resolving conflicts, supporting the rule of law, and encouraging responsibility on a global scale. As international justice keepers, they manage difficult diplomatic and legal issues to promote stability and respect for international norms.<sup>1</sup> This article delves into the varied realm of international courts and tribunals, looking at their mandates, contributions to international law, and human rights protection. We discover the systems that drive global justice, from the International Court of Justice's authoritative rulings to the International Criminal Court's pursuit of responsibility. Furthermore, we investigate their impact on state behavior and conformity with international law, as well as the difficulties they encounter in implementing rulings. The future of these judicial bodies is dependent on increasing their legitimacy, adjusting to rising global concerns, and striking a careful balance between sovereignty and international commitments. Understanding their changing position is critical for future legal professionals who want to contribute to a just and peaceful world order.<sup>2</sup>*

**Keywords:** *international courts, international law, tribunals.*

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<sup>1</sup> Max Planck Encyclopedias of International Law (1st edn, 2008)

<sup>2</sup> *Ibid*

## INTRODUCTION

In this modern and complex world, international courts and tribunals have emerged as pillars of our community with the rise of international problems and nation-state interdependence. These judicial organizations serve a critical role in settling disputes, preserving the rule of law, and fostering state cooperation.<sup>3</sup> As the international guardians of justice, they handle diplomatic complications and legal complexities to maintain an atmosphere of stability, fairness and conformity to international norms.

These courts and tribunals have shaped the course of history and continue to influence the trajectory of global affairs, from the historic decisions of the Nuremberg Trials after World War II, which established the foundation of modern international criminal law, to contemporary cases addressing trade disputes, environmental issues, and human rights violations.<sup>4</sup>

There are numerous international courts and tribunals with varied degrees of ties to the UN. These range from the ICJ, which is the organization's main organ, to the Security Council's ad hoc criminal tribunals, to the ICC and ITLOS, which were established by conventions drafted within the UN but are now independent entities with special cooperation agreements. Other international courts may be entirely autonomous of the United Nations.<sup>5</sup>

Here we will go on an enthralling journey through the varied world of international courts and tribunals. We delve into their various responsibilities, evaluating their contributions to the evolution of international law and human rights protection. We unearth the mechanisms that drive global justice and secure accountability for heinous transgressions, from the International Court of Justice's authoritative declarations on legal problems between nations to the International Criminal Court's pursuit of accountability for the gravest crimes.<sup>6</sup>

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<sup>3</sup> 'UN International Law Documentation' (*United Nations*) <<https://research.un.org/en/docs/law/courts>> accessed 25 July 2023

<sup>4</sup> 'What Is International Law?' (*World 101*, 25 July 2023) <<https://world101.cfr.org/understanding-international-system/global-governance/what-international-law>> accessed 25 July 2023

<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*

Furthermore, we explore the role of these courts and tribunals in molding state behavior and fostering compliance with international law. The precedents and standards they establish affect state behavior, dissuade future wrongdoers and give opportunities for peaceful conflict settlement.

## INTERNATIONAL COURTS AND TRIBUNALS

**International Court of Justice (ICJ):** As the United Nations' primary judicial organ, the International Court of Justice (ICJ) plays a critical role in resolving legal disputes between governments and providing legal advice.<sup>7</sup> Examining its organization, jurisdiction, and key decisions provides vital insights into the significance of peaceful international conflict settlement. ICJ is the successor of the Permanent Court of International Justice which was established by the League of Nations in 1920.<sup>8</sup>

**International Criminal Court:** Instances of the most heinous international crimes, such as genocide, war crimes, crimes against humanity, and aggression, are brought to justice by the ICC, a permanent institution. When national jurisdictions are unable or unwilling to hold people accountable for these crimes, they try to do so.

**International Tribunal for the Law of the Sea (ITLOS):** Disputes involving the interpretation and implementation of the United Nations Convention on the Law of the Sea (UNCLOS) are decided by the International Tribunal for the Law of the Sea (ITLOS). It addresses topics such as maritime borders, governmental obligations in marine regions, and other difficulties.

**World Trade Organization (WTO):** The WTO has a framework for resolving trade-related disputes amongst its member nations. Panels and the Appellate Body investigate situations involving contraventions of WTO agreements and render decisions to resolve conflicts.

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<sup>7</sup> Manvi Jain, 'What Is the Role of the International Court of Justice (ICJ)?' (*Law Times Journal*, 26 January 2021) <<https://lawtimesjournal.com/what-is-the-role-of-the-international-court-of-justice-icj/>> accessed 26 July 2023

<sup>8</sup> *Ibid*

**International Centre for Settlement of Investment Disputes (ICSID):** The World Bank created the ICSID agency to offer resources for the arbitration and resolution of investment disputes between governments and international investors.

**Regional Courts and Tribunals:** The expansion of regional courts and tribunals, such as the European Court of Human Rights (ECHR) and the Inter-American Court of Human Rights (IACHR), demonstrates the growing importance of regional systems in advancing human rights and enforcing international responsibilities.<sup>9</sup> Analyzing the interaction between regional and global courts expands our understanding of international law's interwoven character.

## LAW AND POLITICS IN INTERNATIONAL LAW

**Impartiality and Independence:** The impartiality of international courts and tribunals is critical to the validity of their judgments. Examining judicial independence problems and the delicate balance between legal reasoning and political considerations sheds light on the complexities of international arbitration.<sup>10</sup>

**Enforcement and Compliance:** One of the most difficult issues that international courts and tribunals face is enforcing their decisions. Understanding the tools available to assure court judgment compliance sheds light on the real-world ramifications of international legal rulings.<sup>11</sup>

**Independence and Accountability:** International courts and tribunals must be independent to function effectively. To achieve fair and just outcomes, these bodies must remain unbiased and free of political interference. It is, nevertheless, difficult to strike a balance between independence and accountability.<sup>12</sup> Because international courts lack the enforcement power of domestic courts, their legitimacy is based on their capacity to establish transparency, reliability, and adherence to due process.

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<sup>9</sup> *Ibid*

<sup>10</sup> James Harrison, 'Reflections on the Role of International Courts and Tribunals in the Settlement of Environmental Disputes and the Development of International Environmental Law' (2013) 25(3) *Journal of Environmental Law* <<https://www.jstor.org/stable/26168497>> accessed 26 July 2023

<sup>11</sup> *Ibid*

<sup>12</sup> *Ibid*

**International Courts' Contribution to Customary International Law:** International courts and tribunals play an important role in creating customary international law through their consistent interpretation and implementation of international law. Their decisions help to shape conventional standards that regulate state behavior and are perceived as reflecting global consensus.

**Territorial Controversies and State Immunity:** Territorial disputes and claims of state immunity are frequently heard before international courts and tribunals. Analyzing the guiding principles in such cases and their implications for state sovereignty helps to develop a more nuanced understanding of the delicate balance between state rights and international commitments.

**Settlement of Investor-State Disputes:** The development of investor-state arbitration shows the difficulty of balancing state and investor interests. Investigating the impact of investment arbitration on global governance helps law students understand the complexities of resolving conflicts involving economic interests.

**Individual and Non-State Actors' Roles:** Individual and non-state actors, in addition to governments, are increasingly important in bringing disputes before international courts and tribunals. These legal venues have been used by human rights organizations, advocacy groups, and individuals to seek remedies for human rights breaches and to advocate for justice. Non-state actors' engagement in international legal procedures reflects the changing picture of global governance, as traditional state-centric systems' bounds are broadening.

**The Impact of Legal Technology on Access to Justice:** Legal technology advancements have the potential to transform the operation of international courts and tribunals. These advances, ranging from electronic filing systems to virtual hearings, can improve accessibility and efficiency, ultimately contributing to a more inclusive and effective international justice system.

**The Road Ahead: Opportunities and Challenges:** As the globe grapples with global issues, the role of international courts and tribunals will become increasingly important. The changing global governance landscape necessitates that these organizations adapt to new circumstances

while retaining their essential principles. The future of international adjudication will be shaped by challenges such as assuring global involvement, improving enforcement mechanisms, and striking a careful balance between independence and responsibility. By tackling these issues and capitalizing on opportunities provided by legal technology and a more active role for non-state actors, international courts can continue to serve as beacons of justice and promote the rule of law on a worldwide scale.

**The Varying Roles of International Courts and Tribunals:** Human rights breaches and international criminal law, as well as economic disputes and environmental concerns, are all addressed by international courts and tribunals.<sup>13</sup> The International Criminal Court (ICC), for example, concentrates on prosecuting individuals for crimes against humanity, genocide, and war crimes, to end impunity and provide justice to victims. The World Trade Organization's Dispute Settlement Body (DSB), on the other hand, resolves trade disputes between member countries while guaranteeing conformity with international trade regulations.

**The Influence of International Courts on State Behavior:** International courts and tribunals' verdicts frequently impact state behavior and adherence to international law.<sup>14</sup> They shape the behavior of nations, dissuade future wrongdoers, and contribute to the formation of customary international law by generating legal precedents. The historic decisions of the International Court of Justice and other tribunals have had far-reaching consequences, leading nations to reassess their acts and policies to line with international legal norms.<sup>15</sup>

## DIFFICULTY IN ENFORCING DECISIONS

The execution of international courts' and tribunals' judgments offers a substantial problem due to various factors:<sup>16</sup>

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<sup>13</sup> Karen J. Alter, 'The Multiple Roles of International Courts and Tribunals' in Jeffrey L. Dunoff and Mark A. Pollack (eds) *Interdisciplinary Perspectives on International Law and International Relations* (CUP 2013)

<sup>14</sup> *Ibid*

<sup>15</sup> *Ibid*

<sup>16</sup> Vanya Verma, 'The Problems of Enforcing International Law in India' (*iPleaders*, 1 November 2021)

<<https://blog.iPLEADERS.in/problems-enforcing-international-law-india-2/>> accessed 27 July 2023

**The Right to Sovereign Immunity:** States have sovereign immunity, which means they cannot be subjected to the jurisdiction of the courts of another state without their assent. This immunity might make it difficult to implement verdicts against states since they may refuse to acknowledge the jurisdiction of international courts or refuse to comply with rulings they consider unfavorable.

**Inadequate Enforcement Mechanisms:** International tribunals and courts do not have their enforcement tools. Instead, they rely on governmental assistance to carry out their judgments. If a state refuses to comply with a ruling, the international court may have difficulty ensuring that its judgment is successfully enforced.

**Limited Sanctions:** International courts and tribunals only have a limited power to impose sanctions and even if they impose sanctions it is very difficult to force other nations to follow the sanctions imposed by the courts

**Non-State:** It can also be difficult to enforce rulings against non-state actors such as firms or individuals. The authority of the court may not be universally recognized, making enforcement problematic.

**Lack of Resources:** International courts may lack the resources necessary to properly enforce judgments, particularly when dealing with complicated and high-profile cases. This may have an impact on their ability to monitor compliance and enforce their judgments.

**The lack of a Global Police Force:** International courts, unlike local courts, lack a global police force to enforce their judgments. Domestic law enforcement agencies in relevant areas frequently cooperate with enforcement activities.

**Non-Compliance of Powerful States:** Some powerful powers may disregard or oppose international court judgments, believing they may act with impunity because of their geopolitical or economic clout. This failure to comply calls into question the effectiveness and authority of international courts.

**Limited Public Awareness:** Public knowledge and international pressure can persuade states to obey judicial rulings. Noncompliance, on the other hand, may go unreported or neglected in circumstances with low media attention or public awareness.

Despite these obstacles, international courts and tribunals continue to play an important role in the advancement of international law and justice. They act as forums for settling conflicts and holding parties accountable for their acts, helping to the establishment of a rules-based international order.<sup>17</sup> Addressing the difficulty of enforcing judgments is a continuing endeavor that necessitates state collaboration, establishing the rule of law, and cultivating a common commitment to sustaining the authority and effectiveness of international courts and tribunals.

### **BALANCING SOVEREIGNTY AND INTERNATIONAL OBLIGATIONS**

The issue of balancing sovereignty with international commitments is central to modern international law and politics. Sovereignty refers to a state's sole authority and power to govern itself without intervention from outside sources. International duties, on the other hand, are promises that governments willingly make through treaties, conventions, and customary international law, which often compel them to give up some degree of sovereignty to conform to global norms and values. The tension between a state's wish to maintain control over its domestic affairs and acceptance of its responsibilities within the international community is at the heart of this delicate balance.

### **FUTURE OF INTERNATIONAL COURTS AND TRIBUNALS**

International courts and tribunals have played a critical role in influencing the trajectory of global governance, preserving the rule of law, and seeking accountability for egregious transgressions. Looking ahead, these judicial organizations face a plethora of difficulties and opportunities that will shape their role in the expanding international context.<sup>18</sup> Exploring the

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<sup>17</sup> *Ibid*

<sup>18</sup> Jerome de Hemptinne, 'The Future of International Criminal Justice: A Blueprint for Action' in Antonio Cassese (ed) *Realizing Utopia: The Future of International Law* (OUP 2012)



future of international courts and tribunals provides vital insights into the potential changes, innovations, and adjustments required to meet the demands of a changing world.

International courts and tribunals face both obstacles and opportunities in the future. As global governance evolves, these judicial organizations must adapt to new issues, embrace technology improvements, and handle legitimacy and accessibility difficulties. Cooperation, accountability, and the rule of law will be critical to guaranteeing their sustained relevance and success in establishing a just and peaceful world order.<sup>19</sup> Aspiring lawyers must be aware of these dynamics as they negotiate the complexities of international law and contribute to the building of solid and adaptable international legal systems.

### **CRITICAL ANALYSIS**

The article emphasizes the importance of international courts and tribunals in preserving global security, protecting human rights, and promoting accountability for horrific crimes. It also emphasizes the problems that these judicial bodies confront in enforcing their judgments as a result of circumstances such as sovereign immunity, insufficient enforcement tools, and the non-compliance of powerful states. The importance of striking a balance between sovereignty and international obligations is also discussed. In addition, the paper explores the potential for legal technology improvements to improve access to justice and the many responsibilities of international courts in resolving human rights breaches, economic disputes, and environmental problems. It also emphasizes the role of international courts in changing state behavior and compliance with international law.

### **CONCLUSION**

Ultimately, international courts and tribunals play an important role in global governance, providing essential tools for resolving disputes, fostering accountability, and preserving the rule of law on the international stage. As aspiring law students, you must have a thorough awareness of their functions, problems, and influence to engage with complex international legal issues

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<sup>19</sup> *Ibid*

and contribute to the goal of a just and peaceful world order. Law students can appreciate the complexities of international adjudication and its enormous ramifications for global society by researching historical cases, assessing the interaction of law and politics, and examining the evolving nature of international law. A thorough understanding of the role of international courts and tribunals provides them with the knowledge and perspective needed to navigate the complexities of global governance and advance the principles of justice and human rights in a rapidly changing world as they begin their legal careers.